

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOSEPH DAVID SCARBOROUGH,
#02229226

VS.

DIRECTOR, TDCJ-CID

§
§
§
§
§
§

CIVIL ACTION NO. 4:23cv154

ORDER ADOPTING REPORT AND RECOMMENDATION
CONCERNING PETITIONER'S WRIT OF MANDAMUS


The above-entitled and numbered civil action was referred to United States Magistrate Judge Christine A. Nowak. The Magistrate Judge issued a Report and Recommendation (Dkt. #16), which contains proposed findings of fact and recommendations for the disposition of Petitioner's "Motion to Compel Response on the Chapter 64.01 Forensic DNA Motion" (Dkt. #5), which was construed as a petition for a writ of mandamus. No objections were timely filed.¹

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. The Court concludes that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

¹ Petitioner has filed a "Motion to Forward Chapter 64.01-Forensic DNA Motion to Trial Court." (Dkt. #18). In the motion, Petitioner states that he "understands that the Federal District Court is not authorized to direct state officials to perform certain duties," and cites *Moye v. Clerk, DeKalb Cnty. Superior Ct.*, 474 F.2d 1275, 1275-76 (5th Cir. 1973). (Dkt. #18, p. 1). Petitioner thus concedes that the Magistrate Judge's Report and Recommendation is correct. Petitioner's motion (Dkt. #18) will be addressed by separate order.

It is accordingly **ORDERED** that Petitioner's "Motion to Compel Response on the Chapter 64.01 Forensic DNA Motion" (Dkt. #5), construed as a writ of mandamus, is **DISMISSED** for lack of jurisdiction.

So ORDERED and SIGNED this 5th day of June, 2023.


SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE